IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 40 of 2005

WITH

CIVIL APPLICATION NO. 41 of 2005

M/s.Dhruve Liladhar & Co. .. Appellant

versus

Vinod Bhajanlal Arora & ors. .. Respondents

...

Mr.Vineet B. Naik i/b Mahimtura & Co. for the appellant.

Mr.J.B. Patel for the respondent nos.1 and 2.

CORAM : B.H. MARLAPALLE,J

DATED : 4th October 2005

P.C.:

1. Heard the learned counsel for the respective parties.

2. This appeal was admitted on 22nd March 2005

and it arose from the order passed in Notice of Motion no. 4753 of 2004 filed in B.C.C.C. Suit no.4362 of 2004.

3. Between the parties, there was yet another suit filed in the Court of the learned Civil Judge, Sr. Division at Thane i.e. Special Civil Suit no.387 of 2004. The said suit has already been disposed of in terms of the consent terms signed between the parties and placed on record before the Court below. Clause (a) of the said consent terms reads as under:-

> "the defendant nos.1 and 2 are jointly and severally agree and undertake to appear before the Hon'ble High Court of Judicature at Bombay on the date and time to be notified b the learned Advocates M/s.Mahimtura & Co. within 7 days from the date hereof and consent for setting aside the order dated 18th December 2004 passed by His Honour Judge Shri V.C. Singh of the Hon'ble Bombay City Civil Court in Notice of Motion no.. 4753 of 2004 in

S.C. Suit no.4362 of 2004.

4. By placing reliance on the above quoted compromise terms dated 19th April 2005, the learned counsel for the respective parties have moved this motion for disposal of the appeal.

5. The appeal is thus allowed and the impugned order dated 18th December 2004 passed in Notice of Motion no.4753 of 2004 in S.C. Suit no.4362 of 2004 is hereby quashed and set aside.

No costs. Civil Application does not survive.

B.H. MARLAPALLE, J